

Message

From: Baney, Tony [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=D145C197741045CB99F3AF60EBEA0025-TBANEY]
Sent: 2/20/2019 2:45:03 PM
To: Gardner, Geraldine [Gardner.Geraldine@epa.gov]
Subject: FW: NEW LITIGATION -- TSCA [Hazelton Creek Properties v EPA (3rd Circ. No. 18-3665)]

FYI

From: Holmes, Carol
Sent: Wednesday, February 20, 2019 9:30 AM
To: Miles, James <miles.james@epa.gov>; Presler, Amos <presler.amos@epa.gov>; Baney, Tony <Baney.Tony@epa.gov>
Subject: FW: NEW LITIGATION -- TSCA [Hazelton Creek Properties v EPA (3rd Circ. No. 18-3665)]

Reminder re email from December that went to Susan (I'd forgotten!). I hadn't realized that Susan first heard about this case from OCSPP because OGC sent an email to OCSPP, not OECA, when the litigation first came in....sigh.

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Carol S. Holmes
Senior Counsel
Crosscutting Policy Staff
Office of Civil Enforcement (MC 2241A)
U.S. Environmental Protection Agency
1200 Pennsylvania Ave, NW
Washington, DC 20460
Phone (202) 564-8709

From: Miles, James
Sent: Thursday, December 20, 2018 6:30 PM
To: Holmes, Carol <Holmes.Carol@epa.gov>
Subject: Fwd: NEW LITIGATION -- TSCA [Hazelton Creek Properties v EPA (3rd Circ. No. 18-3665)]

Sent from my iPhone

Begin forwarded message:

From: "Saenz, Diana" <Saenz.Diana@epa.gov>
Date: December 20, 2018 at 6:28:22 PM EST
To: "Bodine, Susan" <bodine.susan@epa.gov>, "Starfield, Lawrence" <Starfield.Lawrence@epa.gov>, "Traylor, Patrick" <traylor.patrick@epa.gov>, "Kelley, Rosemarie" <Kelley.Rosemarie@epa.gov>, "Sullivan, Greg" <Sullivan.Greg@epa.gov>
Cc: "Miles, James" <miles.james@epa.gov>, "Werner, Jacqueline" <Werner.Jacqueline@epa.gov>, "Presler, Amos" <presler.amos@epa.gov>
Subject: RE: NEW LITIGATION -- TSCA [Hazelton Creek Properties v EPA (3rd Circ. No. 18-3665)]

Susan – Here is a procedural update on the Hazelton Creek filing [TSCA/ PCBs]:

Hazelton Creek Properties, Moosic, Pennsylvania, filed a petition dated 12/5/18 for review with the U.S. Court of Appeals for the Third Circuit. The filing requests review of what the petitioner labels a “final agency action” in the form of a Notice of Noncompliance and Information Request.

The scheduling order required a government response by Thursday, December 20th, but DOJ filed an unopposed motion for extension of time to respond by January 8th. The motion has not yet been granted, but the clerk advised DOJ to proceed as if it will be granted.

Attorney Client / Ex. 5

We will provide you with more information in early January and will be available if you would like to discuss this during the first week of January.

Thank you,
Diana

Diana J. Saenz
Acting Director
Waste and Chemical Enforcement Division
Office of Civil Enforcement/ U.S. EPA
1200 Pennsylvania Ave., N.W.
Mailcode 2249A
Washington, D.C. 20460
Phone: (202) 564-4209
Fax: (202) 564-0022
Saenz.Diana@epa.gov

From: Sullivan, Greg
Sent: Monday, December 10, 2018 11:45 AM
To: Saenz, Diana <Saenz.Diana@epa.gov>; Miles, James <miles.james@epa.gov>; Werner, Jacqueline <Werner.Jacqueline@epa.gov>
Cc: Kelley, Rosemarie <Kelley.Rosemarie@epa.gov>
Subject: FW: NEW LITIGATION -- TSCA [Hazelton Creek Properties v EPA (3rd Circ. No. 18-3665)]

Please reach out to region 3.

From: Bodine, Susan
Sent: Monday, December 10, 2018 10:12 AM
To: Kelley, Rosemarie <Kelley.Rosemarie@epa.gov>; Sullivan, Greg <Sullivan.Greg@epa.gov>
Cc: Starfield, Lawrence <Starfield.Lawrence@epa.gov>; Traylor, Patrick <traylor.patrick@epa.gov>;

Shiffman, Cari <Shiffman.Cari@epa.gov>; Branning, Hannah <Branning.Hannah@epa.gov>
Subject: FW: NEW LITIGATION -- TSCA [Hazelton Creek Properties v EPA (3rd Circ. No. 18-3665)]

Attorney Client / Ex. 5

Susan

From: Beck, Nancy
Sent: Monday, December 10, 2018 8:00 AM
To: Bodine, Susan <bodine.susan@epa.gov>; Wright, Peter <wright.peter@epa.gov>
Subject: FW: NEW LITIGATION -- TSCA [Hazelton Creek Properties v EPA (3rd Circ. No. 18-3665)]

FYI

Nancy B. Beck, Ph.D., DABT
Deputy Assistant Administrator, OCSPP
P: 202-564-1273
beck.nancy@epa.gov

From: Grant, Brian
Sent: Monday, December 10, 2018 7:18 AM
To: OGC Immediate Office MGMT <OGCImmediateOfficeMGMT@epa.gov>; OGC Immediate Office Support <OGCFrontOfficeSupportStaff@epa.gov>; Beck, Nancy <Beck.Nancy@epa.gov>; Baptist, Erik <baptist.erik@epa.gov>; Bertrand, Charlotte <Bertrand.Charlotte@epa.gov>; Morris, Jeff <Morris.Jeff@epa.gov>; Mottley, Tanya <Mottley.Tanya@epa.gov>
Cc: Cole, Joseph E. <cole.josephe@epa.gov>; Fisher, Bethany <fisher.bethany@epa.gov>
Subject: NEW LITIGATION -- TSCA [Hazelton Creek Properties v EPA (3rd Circ. No. 18-3665)]

On December 5, Hazelton Creek Properties, located in Moosic, PA, filed a petition for review under TSCA section 19(a) in the US Court of Appeals for the Third Circuit challenging a Notice of Noncompliance (NON) issued by EPA Region 3. The NON asserts that placement of PCB materials on the site property at levels over 2 ppm, in compliance with a Pennsylvania State permit and Pennsylvania policy, constitutes a violation of the EPA TSCA PCB regulations, and cautions that further receipt by the company of such materials may result in EPA enforcement. The Notice states that "No corrective action is necessary by your company at this time".

We will contact DOJ to have an attorney assigned and work with Region 3 ORC on this. Please let us know if you have any questions.

Brian Grant
EPA Office of General Counsel
Pesticides and Toxic Substance Law Office
202-564-5503